

REMARKS

Claims 8, 10-17 and 19 remain in the application.

Applicants' Attorney acknowledge with appreciation the phone interview of the instant application with the Examiner on October 20, 2004 and Examiner's helpful comments made during said interview.

DRAWINGS

The Examiner has objected to the drawing under 37 CFR 1.83(a) as allegedly not showing the symbolic cross-section of plastic of the closure and the fitment. Applicants submit that the rules for drawings in patent applications provide that the cross-section of a plastic will show a cross hatch of alternating "thin" and "thick" lines. Applicants submit that Figures 2, 3, 3a and 5 include such cross-hatching. However, in order to expedite prosecution of the instant application, Applicants are including a new set of Figures making said cross-hatching more prominent than in the previously submitted and accepted drawings.

CLAIM REJECTION-35 USC § 103

1. The Examiner has rejected Claims 8, 10-17 and 19 under 35 USC § 103(a) as being unpatentable over Pfefferkorn et al. in combination with Thompson. Applicants respectfully traverse the Examiner on this ground of rejection.

The instant invention, as claimed, is directed to a closure in combination with a fitment for a container. The closure is provided with a top wall with an outer side wall extending downwardly therefrom and an inner sealing ring spaced inwardly from the side wall. The outer side wall includes circumferentially spaced vertically extending ribs along an upper inner surface adjacent the top wall. The inner sealing ring is provided with a lower terminating edge engageable with a lip of a fitment neck inner surface. The spacing between an upper portion of the ribs and an upper portion of an outer surface of the sealing ring is less than the thickness of the fitment neck. And specifically, the vertically extending rib contacts the fitment neck at the spaced locations of the circumferentially spaced ribs for embedding into the fitment neck thereby preventing the closure from inadvertently unthreaded from the fitment.

To the contrary, Pfefferkorn et al. teaches a container with a fitment neck and a closure with an inner seal ring and a rib or abutment identified by the numeral 12. Pfefferkorn et al. teaches that this alleged abutment 12 is a circumferentially sealing bulge which seals against an outer side 24 of a container opening 20. (References is made to column 4, lines 28-29 of Pfefferkorn et al.) And, the Examiner acknowledges that Pfefferkorn et al. does not teach that this bulge 12 or rib is discontinuous or comprises a plurality of spaced ribs, as claimed in the instant application. Moreover, the bulge 12 does not "embed" or is positioned to be capable of "embedding" into a fitment neck. The Examiner, however, has attempted to broaden the definition of the word "embed or embeddable" to allegedly mean "enclosed closely". However, this is not an accepted definition of "embed" or "embeddable". Webster's dictionary at page 367, 1981 Edition, and included as Exhibit A defines "embed" as being "to enclose closely in or

as if in mating". And, Webster defines "embedding" as "to make something an integral part". In the teachings of Pfefferkorn et al., the bulge is not an integral part with the fitment neck and very well may be "enclosed closely" whereas in the instant invention, as claimed, the ribs "embed" into the fitment neck and becomes an "integral part of the fitment neck and closure".

As for the Thompson reference, Thompson teaches circumferentially spaced stops 43 at a juncture of the top 11 and skirt 12 of the closure. Each stop 43 has a bottom face 45 which abuts radially the outer part of an interface 32 of a container. (Reference is made to column 2, lines 32-34 and column 2, lines 61-67). Thus, Thompson also does not provide for a plurality of vertically extending ribs which contact a fitment neck at the spaced locations of the ribs and embed into a fitment neck, as claimed in the instant application. Thus, Applicants urge that the combination of Pfefferkorn et al. with Thompson does not teach nor remotely suggest the instant claimed invention and respectfully request that the Examiner withdraw this rejection.

2. The Examiner has rejected Claims 8, 10-17 and 19 under 35 USC § 103(a) has been unpatentable over Kano et al. in combination with Thompson. Applicant respectfully traverses Examiner on this ground of rejection.

As pointed out previously, the instant invention, as claimed, is directed to a plurality of ribs that are peripherally spaced at the juncture of the top wall and side wall of the closure and are directed inwardly to embed into the fitment neck of a container. The result is the fitment neck being pinched between the ribs and an inner seal.

Kano et al. teaches a flexible sealing member 34 in combination with a contact piece 36 and an annular plug seal 38. Kano et al. teaches the seal is maintained by allowing the annular sealing piece 34 to be deflected angularly outward in order to properly seal the mouth and neck portion of a container. As pointed out in a previous amendment, this annular contact piece 36 of Kano et al. is deformed or compressed upon contact such that it is deflected upward upon contact with an annular boundary 66, as shown in Figure 5 of Kano et al. Thus, the structure of the Kano et al. closure and fitment is such that the contact piece 34 which the Examiner alleges is a circumferential sealing rib is a sealing member which is flexible and which deforms and compresses appropriately upon the application of the closure to the container. Thus, the contact piece 36 prevents the neck of the container from adequately sealing the closure and the plug seal 38 does not depend fully downward into the container. Moreover, the alleged "vertically extending sealing rib 34" depends from the top wall and does not extend inwardly from the side wall as claimed in the instant application. Thus, Applicants urges that Kano et al. does not teach nor remotely suggest a rib being embeddable into a fitment neck. (Applicants submit that "embeddable" does not mean just "enclose closely" but means "enclose closely in or as if in mating" or the embedding makes the rib an integral part with the fitment neck).

Again, the Thompson reference is cited as allegedly correcting the deficiency of Kano et al. in teaching ribs being discontinuous or a plurality of spaced ribs. As pointed out previously, Thompson teaches circumferentially spaced stops 43 wherein each stop 43 is provided with a bottom face 45 which abuts radially an outer part of inner-face 32 of a container and does not embed into a fitment neck, as claimed in the instant application. Thus, Thompson does not

correct the deficiencies of Kano et al. in the teachings of the vertically extending spaced ribs embedding into a fitment neck, as claimed. Therefore, Kano et al. in combination with Thompson does not teach nor remotely suggest the instant claimed invention and Applicants respectfully request that the Examiner withdraw this rejection.

Applicants urge that the instant application is now in condition for allowance. However, if the Examiner believes there are other unresolved issues in this case, Applicants' Attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues.

Respectfully submitted,



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PTO/SB/17 (10-04v2)

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FEE TRANSMITTAL for FY 2005 <small>Effective 10/01/2004. Patent fees are subject to annual revision.</small>				Complete if Known																																																																																																																																																																																			
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ADDITIONAL FEES <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for ex parte reexamination</td><td></td></tr> <tr><td>1804</td><td>920*</td><td>1004</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td>110.00</td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>65</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>1252</td><td>430</td><td>2252</td><td>215</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>1253</td><td>880</td><td>2253</td><td>490</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1254</td><td>1,530</td><td>2254</td><td>765</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>1255</td><td>2,080</td><td>2255</td><td>1,040</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>1401</td><td>340</td><td>2401</td><td>170</td><td>Notice of Appeal</td><td></td></tr> <tr><td>1402</td><td>340</td><td>2402</td><td>170</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1403</td><td>300</td><td>2403</td><td>150</td><td>Request for oral hearing</td><td></td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>65</td><td>Petition to revive - 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SUBMITTED BY		(Complete if applicable)	
Name (Print/Type) Charles G. Lange	Registration No. 24,783	Telephone (502) 584-1135	
Signature	(Attorney/Agent)	Date October 27, 2004	

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